IV. REMARKS

Status of the Claims

Claims 1-3 and 5-10 are amended. New claims 11 -17 are added. Claims 1-17 are presented for further consideration.

Summary of the Office Action

Claims 1,3-5 and 7-10 stand rejected under 35USC102(e) on the basis of the cited reference, 3rd Generation Partnership Project; Technical specification Group Terminals; Multimedia Messaging Service(mms); Functional Description: Stage 2, (3G TS 123.140 VERSION 1.0.0), referred to as 3GPP. Claim 6 stands rejected under 35USC103(a) based on the reference 3GPP in view of the cited reference Short, et al, U.S. Patent No. 6,130,892. The Examiner is respectfully requested to reconsider his rejection in view of the above amendments and the following remarks.

It is believed that the rejection of claims 2,5, and 8-10 under 35USC112 are fully met by the amendments presented above.

The Invention

Applicant directs the Examiner's attention to the following excerpt from page 7, line 9-16 of the subject application:

> "The term notification message refers to at least two types of notification messages: 1) notification messages the MMSC has sent but the terminal has not received; 2) notification messages the MMSC has not even sent. The MMSC has information on the messages it has sent and received. The information can be maintained e.g. in a suitable database in the MMSC.
>
> Notification messages the MMSC has sent but the terminal has not received mean notification messages which have left the MMSC but which the terminal has not acknowledged."

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The claims of this application are supported by the above description and other portions of the specification.

Claim 2 simply defines that the MMSC is requested to transmit notification message(s) for multimedia messages for which a notification message has been sent, but not received.

The passage cited above describes the means by which the MMSC identifies notification messages actually received by the terminal. Such means are in the form of received acknowledgements sent by the terminal. If the MMSC received an acknowledgement from the terminal, then the notification message was received. The terminal does not need to know which of the notifications were missed. It just simply requests such notifications. When the MMSC receives the request, it will know which one(s) to send by reference to the received acknowledgements.

Discussion of the Cited Reference

The cited document 3GPP, submitted by the Applicant in an Information Disclosure Statement, is a very early draft and accordingly contains inconsistencies. Different parts of the document may not be indiscriminately combined. What it really teaches a skilled person is questionable. In any case, the standard document does not mention the basic problem to which the present invention provides a solution. The text of this application at page 1, line 33 to page 2, line 12 describes this problem according to the following:

> "In a normal situation the MMSC transmits a notification message to the terminal as soon as a multimedia message addressed to the terminal in question arrives. However, the MMSC may fail to transmit the notification message for

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several reasons and the terminal may fail to receive it. For example, if the terminal is switched off, it cannot receive notification messages. In addition, the memory of the terminal can be temporarily so full that there is no room for the notification message sent by the MMSC, or an error may occur on the transmission path as a result of which the notification message gets lost on its way to the terminal. It may also happen that the notification message arrives at the terminal, but the terminal cannot interpret it due to an error on the transmission path.

In addition to the above-mentioned reasons, the terminal may fail to receive the notification message because of poor connections. The radio signal that includes the notification message may be too weak when it arrives at the terminal. The battery of the terminal may be so low that the notification message cannot be received."

This problem is not discussed in the cited standard document. However, as pointed out by the Examiner, the standard document describes, although in very general terms, in chapter 8.3.3 a MMS query operation. The document says:

"The MMS query operation is used to retrieve information of the existing multimedia messages in the MMS relay. The query operation retrieves all the multimedia message notifications from the MMS relay and then allows the user retrieve the messages."

It is admitted that this paragraph discloses a query. However, claim 1 specifies that a <u>defined query</u> is sent requesting only notifications not yet received. The general query disclosed in the standard document would result in all notifications being sent whether received or not. Although this would include the notifications not received, because it retrieves all notifications, the terminal has no means by which to differentiate. The cited reference 3GPP fails to disclose a defined query as stated in the claims of this application. Applicant submits that the system presented in the standard

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document   3GPP   is   lacking   the   ability   for:

"transmitting a first message wirelessly from the terminal to the multimedia messaging centre, the first message requesting the multimedia messaging centre to transmit a notification message to the terminal on multimedia messages addressed to the terminal which have arrived at the multimedia messaging centre and on which the terminal has not received a notification message yet".

Accordingly the cited reference does not support the rejection based on anticipation.

In addition claim 1 is amended so that it provides for a first message with an option to define a selection criterion so as to limit information to be sent in response to said first message.

It is possible to define that only notification message(s) concerning new messages (or messages for which notification messages has been missed) are requested to be sent. This is in contrast to what has been presented in the reference 3GPP. While the present invention enables sending notifications on messages which are for some reason not yet successfully notified, the standard document only enables requesting notifications on the whole content of the multimedia message storage. This is understandable, since the cited reference 3GPP does not recognize the problem on which the present invention is focused, namely the failure of sending or receiving multimedia notifications.

The Issue of Anticipation

The Examiner is reminded that the anticipation analysis requires a positive answer to the question of whether the system of cited reference 3GPP would infringe the claims of this application, if

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it were later.

Claims 8, 9, 10, and 15 describe a message centre, a terminal, a system, and a computer program product having components that provide the same features as defined in claim 1. New claim 1 is dependent on claim 1, new claims 12 and 13 depend from claim 8, claim 14 is dependent on claim 9, and claims 16 and 17 are dependent on new claim 15. This means that all of the claims contain the above described features that differentiate the invention of this application over the cited art. Accordingly the above arguments apply equally to the dependent claims and to new claims 11-17.

All of the claims of this application are directed to a method or device capable of providing a defined query with respect to multimedia message notifications.

Since this capability of providing the claimed features is not present in the system of the reference 3GPP, there can be no infringement of the subject claims. Therefore the teaching of the reference 3GPP does not support the rejection based on anticipation with respect to any of the claims.

These arguments apply equally to the rejected dependent claims.

The Issue of Obviousness
It is well settled that in order to establish a prima facie case for obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, without reference to the disclosure of this application.

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Applicant submits that the above described deficiencies of the primary reference 3GPP are not remedied by the proposed combination with the teaching of the reference Short. The combined references do not therefore support a prima-facie case of obviousness with respect to claim 6. The modification of the teachings of 3GPP or Short, in order to obtain the invention, as described in the claim 6, would not have been obvious to one skilled in the art.

It is noted that the Examiner has not applied the cited references to the substance of claim 2. Since claim 2 is amended to overcome the rejection based on 35USC112, Applicant submits claim 2 specifically is in condition for allowance.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.
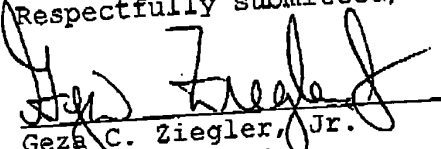
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A check for $520.00 for a one-month extension of time and extra claims fees was previously submitted. No extra fees should be currently due. The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

9 August 2005
Date

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted by fax on the date indicated below to (571) 273-8300.

Date: Aug. 9, 2005

Signature: Meaghan Bayl
Person Making Deposit

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